



1 **DONALD W. COOK, CSB #116666**
2 ATTORNEY AT LAW
3 3435 Wilshire Blvd., Suite 2910
4 Los Angeles, CA 90010
5 (213) 252-9444 / (213) 252-0091 facsimile
6 manncook@earthlink.net
7
8 Attorney for Petitioner

**CONFORMED COPY
ORIGINAL FILED**
Superior Court of California
County of Los Angeles

AUG 25 2016

Sherri R. Carter, Executive Officer/Clerk
By N. DiGiambattista, Deputy

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10
11 **FOR THE COUNTY OF LOS ANGELES**

12 CYNTHIA ANDERSON-BARKER,
13
14 Petitioner,

15 vs.

16 CITY OF LOS ANGELES, and DOES 1 through
17 100, inclusive,
18
19 Respondents.

Case No. BS 159845
(Assigned to the Hon. Amy D. Hogue,
Department 86)

**PETITIONER'S BRIEF IN
SUPPORT OF PETITION FOR
ORDER COMPELLING
DISCLOSURE PURSUANT TO
PUBLIC RECORDS REQUEST;
DECLARATIONS OF DONALD W.
COOK, DWIGHT W. COOK AND
CYNTHIA ANDERSON-BARKER**

20 Date: 10/19/16
21 Time: 9:30 a.m.
22 Dept: 86
23 (RESERVED)

24 TO THE HON. AMY D. HOGUE, JUDGE OF THE SUPERIOR COURT:

25 Petitioner Cynthia Anderson-Barker hereby submits her brief in support of an order compelling
26 Respondent City of Los Angeles to disclose public records sought in the Petition filed January 27, 2016.
27 The Administrative Record ("AR") in support of the Petition is separately filed.

28 DATED: August 24, 2016

29
30 **LAW OFFICE OF DONALD W. COOK**
31 Attorney for Petitioner

32 By _____

33 Donald W. Cook

1 TABLE OF CONTENTS

2 Page

3 Table of Authorities	4 iii
4 MEMORANDUM OF POINTS AND AUTHORITIES	5 1
5 I. Case Background and Relief Requested.	6 1
6 II. Description Of Records At Issue.	7 1
7 A. 10/7/96 Memorandum.	8 1
8 B. CHP 180 Forms.	9 2
9 C. VIIC Computer Data.	10 2
10 III. The California Public Records Act and Burden of Proof.	11 3
11 IV. The Requested Items Are Public Records Which Must Be Disclosed.	12 4
12 A. The Items Petitioner Seeks Are “Public Records.”	13 4
13 B. Respondent’s Refusal To Produce The Items Is Wrongful.	14 5
14 <i>The 10/7/96 Memorandum</i>	15 5
15 <i>Redacted CHP 180 Forms</i>	16 5
16 <i>VIIC Data</i>	17 6
17 C. Respondent Is Only Entitled To The “Direct Cost” Incurred In Producing The Records.	18 7
18 V. Petitioner Is Entitled to a Mandatory Award of Attorneys Fees.	19 7
20 DECLARATION OF DONALD W. COOK	21 8
22 DECLARATION OF DWIGHT W. COOK	23 12
24 DECLARATION OF CYNTHIA ANDERSON-BARKER	25 16

1 Table of Authorities

2 Page(s)

3 **Cases**

3 <i>American Civil Liberties Union Foundation v. Deukmejian,</i>	4
3 32 Cal.3d 440 (1982)	4 6
5 <i>Belth v. Garamendi,</i>	5
5 232 Cal.App.3d 896 (1991)	5 7
6 <i>Braun v. City of Taft,</i>	7
6 154 Cal.App.3d 332 (1984)	7 3
7 <i>Citizens for a Better Environment v. Dept. of Food & Agriculture,</i>	8
7 171 Cal.App.3d 704 (1985)	8 4
9 <i>City of Los Angeles v. Superior Court (Axelrad),</i>	9
9 41 Cal.App.4th 1083 (1996)	9 3
10 <i>County of Los Angeles v. Superior Court (Anderson-Barker),</i>	10
10 242 Cal.App.4th 475 (2015)	10 5
12 <i>Long Beach Police Officers Ass'n v. City of Long Beach,</i>	12
12 59 Cal.4th 59 (2014)	12 4
14 <i>New York Times v. Superior Court,</i>	14
14 218 Cal.App.3d 1579 (1990)	14 3
15 <i>North County Parents Organization for Children with Special Needs v. Dept. of Educ.,</i>	15
15 23 Cal.App.4th 144 (1994)	15 7

17 **Constitution/Statutes**

18 Cal. Const., Art. I § 3	18 4
19 Cal. Gov't Code § 6252	19 4
20 Cal. Gov't Code § 6253	20 3
21 Cal. Gov't Code § 6253.9	21 4, 6
22 Cal. Gov't Code § 6254.9	22 4
23 Cal. Gov't Code § 6255	23 3
24 Cal. Gov't Code § 6256	24 3
25 Cal. Gov't Code § 6259	25 7

26 **Other Authority**

27 88 Ops.Cal.Atty.Gen. 153 (2005)	27 4
--	------

MEMORANDUM OF POINTS AND AUTHORITIES

I. Case Background and Relief Requested.

This California Public Records lawsuit arises from Petitioner’s request on the City of Los Angeles (“City”) to produce certain records regarding (a) City’s policies for seizing vehicles allegedly used as “bandit taxis” (vehicles for hire operated in violation of L.A.M.C. § 71.02) and (b) City records and computer data documenting such vehicle seizures. After Petitioner filed and served her Cal. Gov’t Code § 6259(a) Petition (“1/27/16 Petition”), the City belatedly produced *some* of the requested records. As to records not produced, Petitioner now seeks the Court’s order directing disclosure of the following:

- A. An October 7, 1996 LA City Department of Transportation Memorandum (“10/7/96 Memorandum”) regarding bandit taxicab enforcement procedures. See 1/17/16 Petition ¶6 @ ls. 17-22;
- B. For vehicles seized anytime from January 1, 2008, to the present, redacted CHP 180 forms documenting vehicle seizures made at the direction of a City employee pursuant to Cal. Veh. Code §21100.4.¹ See 1/17/16 Petition ¶6 @ ls. 23-25; and
- C. For vehicles seized anytime from January 1, 2008, to the present, certain VIIC computer data regarding vehicle seizures made at the direction of a City employee pursuant to Cal. Veh. Code §21100.4.² See 1/17/16 Petition ¶6 @ ls. 26-28.

II. Description Of Records At Issue.

A. 10/7/96 Memorandum.

After Petitioner filed and served the 1/27/16 Petition, the City produced, as reflecting a City policy document Petitioner had sought, a May 23, 2012 Intra-Departmental Correspondence. See **Exhibit B** (“5/23/12 Correspondence”) (AR³ 05-07). In describing City procedures regarding bandit taxi seizures, the 5/23/12 Correspondence referenced another City policy document mandating additional procedures:

¹ Section 21100.4 authorizes local governmental officials to seek a warrant to seize a vehicle being operated as a vehicle for hire in violation of local law.

² "VIIC" refers to *Vehicle Information Impound Center*. See Declaration of Donald W. Cook ¶6(D) for a fuller description and use of VIIC.

³ “AR” refers to Administrative Record. The AR’s pagination is at the bottom right hand corner.

1 Upon entering the field, [LA City] Department [of Transportation] investigators shall
2 adhere to bandit taxicab enforcement procedures as prescribed in the Department
3 memorandum dated October 7, 1996 [*i.e.*, the 10/7/96 Memorandum].

4 **Exhibit B**, at page 3 ¶B (AR 05).

5 Petitioner has specifically requested that the City produce the 10/7/96 Memorandum; the City
6 declines or refuses to do so. Declaration of Donald W. Cook ¶4.

7 **B. CHP 180 Forms.**

8 A CHP 180 form is a multi-part paper form used to record vehicles seized and removed from the
9 street at the direction of City officials. **Exhibit E** is a blank CHP 180 form. Whenever the City seizes a
10 vehicle as a suspected bandit taxi, the City's DOT "investigator shall complete a **CHP Form 180**
11 (**VEHICLE REPORT**).” See 5/23/12 Memorandum @ page 3 ¶C (AR 05).

12 Because the requested CHP 180 forms may contain names, addresses, and/or driver's license
13 numbers of the vehicles' owners or drivers, Petitioner agrees that the City may redact that information
14 from the forms. *County of Los Angeles v. Superior Court (Anderson-Barker)*, 242 Cal.App.4th 475, 483-
15 87 (2015) (Court of appeal holds that vehicle owners' names and addresses reflected on CHP 180 forms
16 are not subject to production under the California Public Records Act.).

17 The City has refused to produce redacted copies of CHP 180 forms.

18 **C. VIIC Computer Data.**

19 Pursuant to contracts executed by the City and the tow companies that tow and store vehicles
20 ("Official Police Garage" or OPG) seized at the City's direction, the tow companies must record in a
21 computer database certain information about each vehicle seizure. The database is "Vehicle Impound
22 Information Center" or "VIIC." Although VIIC is a database maintained by a private entity, Official
23 Police Garages of Los Angeles ("OPG-LA"), the City has unlimited access to *all* VIIC data. Rose depo.,
24 61:17-23 (**Exhibit A**), Jones depo., 24:18-26:22 (**Exhibit B**); *see also* City contract with OPG, Part
25 14.3(c) (**Exhibit H** @ AR 46) and Article 9.3 (**Exhibit H** @ AR 49).⁴ That is, even though the VIIC data
26 is stored in a privately-owned and maintained computer system, the City both owns *and* has constructive

28 ⁴ **Exhibit H** is a representative contract between the City and the OPGs. See Declaration of Donald
W. Cook ¶6.

1 possession of the data. See PSC-23 (**Exhibit I** @ AR 59-60).⁵

2 Petitioner here seeks production, as electronic data in its original form, the VIIC data for each
3 City-directed §21100.4 vehicle seizure since January 1, 2008, *but not* the vehicle owners' names or
4 addresses.

5 **III. The California Public Records Act and Burden of Proof.**

6 "The Public Records Act . . . was enacted in 1968 and provides that 'every person has a
7 right to inspect any public record, except as hereafter provided.' (§ 6253, subd. (a).) We
8 have explained that the act was adopted 'for the explicit purpose of "increasing freedom
9 of information" by giving the public "access to information in possession of public
10 agencies.'" ' (CBS, Inc. v. Block (1986) 42 Cal.3d 646, 651 [230 Cal.Rptr. 362, 725 P.2d
11 470].) As the Legislature declared in enacting the measure, 'the Legislature . . . finds and
12 declares that access to information concerning the conduct of the people's business is a
13 fundamental and necessary right of every person in this state.' (§ 6250.)" (Roberts v. City
14 of Palmdale (1993) 5 Cal.4th 363, 370, 20 Cal.Rptr.2d 330, 853 P.2d 496.)

15 *City of Los Angeles v. Superior Court (Axelrad)*, 41 Cal.App.4th 1083, 1086 (1996).

16 Under the California Public Records Act ("PRA") if a record is a public record then the
17 presumption is it must be disclosed. Cal. Gov't Code §§ 6253(a), 6256. The agency is required to
18 respond to the request within ten days. Cal. Gov't Code § 6253(c). If the agency objects to disclosure,
19 *the agency carries the burden of proof to show that the requested records are exempt from disclosure.*
20 Cal. Gov't Code § 6255. If the agency fails to carry that burden, the requested record *must be disclosed.*
21 *New York Times v. Superior Court*, 218 Cal.App.3d 1579, 1586-87 (1990) (Court of Appeal reversed trial
22 court because that court failed "to place the burden on the agency to justify withholding the information
23 sought" under the Public Records Act.); *Braun v. City of Taft*, 154 Cal.App.3d 332, 345 (1984) ("The
24 burden of demonstrating a need for nondisclosure is upon the agency claiming the right to withhold the
25 information.").

26 Not only does the PRA itself require that exemptions to disclosure be narrowly construed so as

28 ⁵ **Exhibit I** are standard City contract provisions incorporated into the contracts between the City and
OPGs. See Article 14.1 of OPG contract (**Exhibit H** @ AR 49).

1 to favor disclosure, e.g., *Citizens for a Better Environment v. Dept. of Food & Agriculture*, 171
2 Cal.App.3d 704, 711 (1985), the California constitution “direct[s] the courts to broadly construe statutes
3 that grant public access to government information and to narrowly construe statutes that limit such
4 access.” *Long Beach Police Officers Ass’n v. City of Long Beach*, 59 Cal.4th 59, 68 (2014) (citing Cal.
5 Const., Art. I § 3 subd. (b)(2)).

6 Regarding the computer data Petitioner seeks, in relevant part Cal. Gov’t Code § 6253.9 states:

7 (a) Unless otherwise prohibited by law, any agency that has information that
8 constitutes an identifiable public record not exempt from disclosure pursuant to this
9 chapter that is in an electronic format shall make that information available in an
10 electronic format when requested by any person and, when applicable, shall comply with
11 the following:

12 (1) The agency shall make the information available in any electronic
13 format in which it holds the information.

14 (2) Each agency shall provide a copy of an electronic record in the format
15 requested if the requested format is one that has been used by the agency to create
16 copies for its own use or for provision to other agencies. The cost of duplication
17 shall be limited to the direct cost of producing a copy of a record in an electronic
18 format.

19 Cal. Gov’t Code § 6253.9(a).

20 Respondent has a heavy burden for justifying its refusal to produce the records Petitioner seeks.

21 **IV. The Requested Items Are Public Records Which Must Be Disclosed.**

22 **A. The Items Petitioner Seeks Are “Public Records.”**

23 The items Petitioner seeks fall within the definition of public records. Gov’t Code § 6252(e)
24 (public records includes “any writing containing information” “regardless of physical form or
25 characteristics”). *See also* Gov’t Code § 6254.9(d) (“Public records stored in a computer shall be
26 disclosed as required by this chapter.”); 88 Ops.Cal. Atty.Gen. 153, 157 (2005) (Electronically-stored data
27 defining geographic boundaries of “assessor’s parcels” are “public records” within the meaning of §
28 6252(e)).

1 **B. Respondent's Refusal To Produce The Items Is Wrongful.**

2 *The 10/7/96 Memorandum*

3 Despite specific requests that the City produce the 10/7/96 Memorandum and promises to produce
4 it, the City has not done so. Moreover, the City has provided no explanation on why it has not produced
5 the 10/7/96 Memorandum.

6 *Redacted CHP 180 Forms*

7 The City refuses to produce redacted CHP 180 forms, claiming it need not based on *County of*
8 *Los Angeles v. Superior Court (Anderson-Barker)*, 242 Cal.App.4th 475 (2015). Declaration of Donald
9 W. Cook ¶7. The City is wrong.

10 In *Anderson-Barker*, the court of appeal held the CHP 180 forms as sought by the petitioner there
11 were non-discloseable *because the petitioner sought unredacted CHP 180 forms that included*
12 *confidential information*, to wit, vehicle owners' names and addresses:

13 The CHP 180 forms fall under the section 6254, subdivision (k) exemption
14 because both section 6254.1 of the Government Code and section 1808.21 of the Vehicle
15 Code prohibit disclosure of a vehicle owner's address retrieved from DMV records.
16 Vehicle Code section 1808.21 allows for a DMV record to be disclosed to a "law
17 enforcement agency," such as the sheriff's department in this case. When the deputy
18 sheriff fills out a CHP 180 form when storing or impounding a vehicle, *he or she retrieves*
the names of the registered and legal owners and their addresses from either the
registration paperwork or a registration check of the vehicle with the DMV database
through CLETS. Because this personal information originated from DMV records and
19 was retrieved by a statutorily authorized agency, each CHP 180 form remains protected
20 from nondisclosure under Vehicle Code section 1808.21 and therefore also within the
21 protection of section 6254.1, part of the CPRA.

22 242 Cal.App.4th at 483-84 (emphasis added); *see also* 252 Cal.App.4th 484 at 486-87 (vehicle owners'
23 names, addresses and other personal information confidential under federal law).

24 The *Anderson-Barker* petitioner sought **unredacted** CHP 180 forms. Since the writ proceedings
25 before the court of appeal did not allow for production of CHP 180 forms without names and addresses,
26 the court of appeal held that the government entity was not obligated to produce the **unredacted** CHP 180
27 forms. 242 Cal.App.4th at 488-89.

28 Unlike the case in *Anderson-Barker*, Petitioner herein does *not* seek names, and addresses or other
29 confidential information. Rather, she seeks the CHP 180 forms with vehicle owners' names, their
30 addresses and other personal identifiers redacted (to the extent they are reflected on the CHP 180 forms).

1 Declaration of Donald W. Cook ¶7. Even with vehicle ownership information deleted the CHP 180 forms
2 still contain substantial information about vehicle seizures, i.e., description of vehicle, its condition, when
3 it was seized and under what code section, etc. See **Exhibit E** (blank CHP 180 form). Under the CPRA
4 the City must produce redacted CHP 180 forms.

5 In *American Civil Liberties Union Foundation v. Deukmejian*, 32 Cal.3d 440 (1982), the CPRA
6 requestor ACLU sought from the State “index cards and computer printouts” (“LEIU index cards” and
7 “IOCI printouts”). The State contended the documents were exempt; the trial court disagreed. The lower
8 court directed disclosure *except* that “personal identifiers and information which might reveal confidential
9 sources” should be redacted. 32 Cal.3d at 443. The State appealed.

10 After rejecting the State’s argument the requested documents *in their entirety* constituted
11 “intelligence information” (32 Cal.3d at 443, 449) the Court held the trial court erred by adopting a too-
12 narrow interpretation of exempt intelligence information. Besides personal identifiers and confidential
13 sources, exempt intelligence information included information “that might identify confidential sources,
14 or that was supplied in confidence by its original source.” 32 Cal.3d at 449-51.

15 Applying its broader definition of exempt information, the Supreme Court held that the LEIU
16 index cards were exempt, given the uselessness of the cards once the exempt information was redacted.
17 32 Cal.3d at 453-54. But as to the IOCI printouts, the Court held those must be produced after redaction
18 of “personal identifiers.” 32 Cal.3d at 454.

19 In other words, *American Civil Liberties Union* held that merely because a requested record
20 contains exempt information does *not* justify an *in toto* refusal to produce. Rather, if the confidential
21 information can be redacted without rendering the record unintelligible or meaningless, then the record
22 should be produced albeit with redactions.

23 *VIIC Data*

24 As with the CHP 180 forms, Petitioner does *not* seek any VIIC data reflecting vehicle owners’
25 names, addresses or other personal identifiers (e.g., social security number, driver’s license numbers,
26 etc.). And since the VIIC can be easily produced without such identifiers, Declaration of Dwight W.
27 Cook ¶9, the data should be produced in its original form as electronic data. Cal. Gov’t Code § 6253.9(a).

28 *///*

C. Respondent Is Only Entitled To The "Direct Cost" Incurred In Producing The Records.

When copying paper or computer data in response to a CPRA request, subparagraph (2) of Cal. Code § 6253.9(a) limits Respondent to charging the “direct cost of producing a copy of a record in electronic format.” “Direct cost” means “the cost of copying [the data]” and *not* the labor costs allegedly included in searching for and retrieving the requested records. *North County Parents Organization for Children with Special Needs v. Dept. of Educ.*, 23 Cal.App.4th 144, 146-47 (1994) (holding that agency may not charge for ancillary tasks associated with retrieval, inspection and handling of records). For electronic data, that probably means the cost of a suitable copying and storage medium, e.g., a USB drive. Declaration of Dwight W. Cook ¶¶9.

V. Petitioner Is Entitled to a Mandatory Award of Attorneys Fees.

In pertinent part § 6259(d) of the PRA states:

The court shall award court costs and reasonable attorney fees to the plaintiff should the plaintiff prevail in litigation filed pursuant to this section.

Petitioner is entitled to a mandatory award if the filing of her Petition results in an order of disclosure, favorable settlement, or otherwise results in achieving Petitioner's objective. *Belth v. Garameda*, 232 Cal. App. 3d 896, 901-02 (1991).

Upon issuance of an order compelling disclosure, Petitioner requests that the Court award Petitioner attorneys fees, with the exact amount set after submission of counsel's declaration establishing total time expended.

DATED: August 24, 2016

LAW OFFICE OF DONALD W. COOK
Attorney for Petitioner

By Donald W. Cook

DECLARATION OF DONALD W. COOK

I, DONALD W. COOK, declare:

1. I am an attorney licensed to practice law in this state. I am the attorney for Petitioner.
2. I have represented and continue to represent numerous parties who have sued various California law enforcement agencies over the agencies' respective practices of seizing and impounding vehicles, including the Los Angeles Police Department. Among the agencies whose representatives I have spoken with regarding the agencies' practices in seizing vehicles are: California Highway Patrol; Long Beach APD; Escondido PD; Sonoma County Sheriff's Department; Santa Rosa PD; Los Angeles Sheriff's Department. The statements I make in this declaration are based on my knowledge and records acquired in investigating cases involving vehicle seizures. The depositions I reference in this declaration are those I took for my clients in other litigation in which the City of Los Angeles was a party. True copies of relevant pages from the department are submitted in the separately filed Administrative Record (Exhibit). (Exhibit references that are **bolded** are attached to the AR.)

3. Petitioner's demand for public records was first made by letter dated December 15, 2015. See **it A.** Petitioner did not receive any response to her letter. See attached Declaration of Cynthia Son-Barker. After Petitioner filed and served her Verified Petition (filed January 27, 2016), Deputy Attorney Gerald Sato contacted me. He acknowledged that the City had, for reasons he was unable to provide, not responded to Petitioner's CPRA demand. Mr. Sato stated his office would produce at least some of the items requested. Subsequently, on April 5, 2016, Mr. Sato provided me with copies of the probable cause declarations and court orders concerning vehicles seized pursuant to Cal. Veh. Code § 0.4.

10/7/96 Memorandum

4. On April 5, 2016, I received from Deputy City Attorney Gerald Sato the City's May 23, 2012 Departmental Correspondence from Amir Sedadi to LA City Department of Transportation General Manager Jaime de la Vega. See **Exhibit B**, a true copy of that document (the "5/23/12 Correspondence"). On page 3 of **Exhibit B** (AR 05) the 5/23/12 Correspondence refers to an October 7, 1996 LA City Department of Transportation Memorandum ("10/7/96 Memorandum"). The 5/23/12 Correspondence states that City personnel "shall adhere to bandit taxicab enforcement procedures as prescribed" in the

1 10/7/96 Memorandum. In response to my 4/6/16 email, Mr. Sato stated the City would produce THE
2 10/7/916 Memorandum. See **Exhibit C**. Notwithstanding Mr. Sato's response, the City has never
3 produced the 10/7/96 Memorandum. Nor has the City explained why it has not or will not produce the
4 10/7/96 Memorandum.

5 *CHP 180 Forms & VIIC Data*

6 5. The basic report form used by the City of Los Angeles to document a vehicle seizure is the
7 California Highway Patrol form called "CHP 180." See **Exhibit E**, a true copy of a blank CHP 180 form
8 I received from the City of Los Angeles in *Miranda v. Bonner*, U.S.D.C. No. CV08-3178 SJO, a case in
9 which I represented the plaintiffs.

10 6. Pursuant to contracts between the City and tow companies, vehicles seized and towed at the
11 direction of City employees are towed by an "Official Police Garage" or OPG. See www.oppla.com, the
12 website for the Official Police Garage of Los Angeles ("OPG-LA"). OPG-LA is a non-profit 503(c)(4)
13 organization to "coordinate and manage the activities collectively of the designated official police garages
14 for the city of L.A." 2/10/14 Rose depo., 7:14-8:16 (**Exhibit F**). The contracts between the City and the
15 tow companies are identical on the material terms. 3/7/14 Jones depo., 7:4-22 (**Exhibit G**). **Exhibit H**,
16 which the City provided to my office in discovery in *Castillo v. City of Maywood*, L.A.S.C. No. BC
17 469942, is thus a representative contract between the City and an OPG. For purposes of this present
18 proceeding, the relevant terms are:

19 A. An OPG must record in a computerized system the details and records of each vehicle
20 seized. Parts 3.9 [contract], 9.3, 9.4 [amendment]) (**Exhibit H** @ AR 42, 49).

21 B. An OPG must maintain for the life of the contract and three years thereafter, all records
22 of vehicle seizures. Part 14.3 and PSC-22 (**Exhibit H** @ AR 45, 47);

23 C. The OPG must make its records on vehicle seizures available to the City of Los
24 Angeles on a 24/7 basis, without notice. The OPG "must permit [City] law enforcement personnel
25 or representatives of the Board [of Police Commissioners] or City to make copies of business
26 records at the OPG's place of business, or to remove business records for the purpose of
27 reproduction." Part 14.3(e) (**Exhibit H** @ AR 46);

28 D. The City requires that the OPG record data on vehicle seizures in the "Vehicle

1 Impound Information Center” database, or “VIIC.” Article 9.3 (**Exhibit H** @ AR 49). Although
2 VIIC is a database maintained by OPG-LA, the City has access to *all* VIIC data. Part 14.3(c)
3 (**Exhibit H** @ AR 46); see also 2/10/14 Rose depo., 61:17-23 (**Exhibit F**); 3/7/14 Jones depo.,
4 24:18-26:22 (**Exhibit G**).

5 E. In addition to the City having unlimited access and use of OPG records created
6 pursuant to City contract, the City also *owns* the records. See “Attachment 1 Standard
7 Provisions,” PSC-23 (**Exhibit I** @ AR 59. **Exhibit I** is a true and correct copy of the Standard
8 Provisions for City Contracts I obtained from the City of Los Angeles’ website
9 [<http://per.lacity.org/Standard%20Provisions%20Rev09-2010.pdf>]. **Exhibit I** is incorporated into
10 the contracts between the City and the OPGs. See Part 14.1 [**Exhibit H** @ AR 45].).

11 7. On April 14, 2016, I wrote Mr. Sato informing him that Petitioner was seeking CHP 180 forms
12 with the confidential information identified by the court of appeal in *County of Los Angeles v. Superior*
13 *Court (Anderson-Barker)*, 242 Cal.App.4th 475 (2015), redacted. I also informed Mr. Sato that in lieu
14 of production of actual CHP 180 forms, Petitioner would accept “non-confidential electronically recorded
15 and stored data taken from CHP 180 forms” aka VIIC data. Mr. Sato responded by stating the City would
16 *not* produce redacted CHP 180 forms while saying nothing about producing redacted VIIC data. See
17 **Exhibit D** @ AR 09A-09B (4/14/16 letter) and AR 10 (email exchange).

18 *Identification And Production Of CHP 180 Forms & VIIC Data*

19 8. **Exhibit J** to the Administrative Record is a listing of all VIIC data fields. I received **Exhibit**
20 **J** from the attorney for OPG-LA in 2014, pursuant to a court order in *Castillo v. City of Maywood*,
21 L.A.S.C. No. BC 469942.

22 9. **Exhibit K** to the Administrative Record is a subset of VIIC data I received from OPG-LA
23 pursuant to a subpoena duces tecum issued in *Castillo v. City of Maywood*, L.A.S.C. No. BC 469942. I
24 received the data in the form of an Excel spreadsheet; **Exhibit K** is a selection of data from that Excel
25 spreadsheet printed to paper.

26 10. For reasons set forth in the attached Declaration of Dwight W. Cook, the City can easily
27 access and produce the VIIC and CHP 180 forms concerning vehicles seized under Cal. Veh. Code §
28 21100.4. Additionally, by printing the CHP 180 forms the City can redact vehicle owners’ names and

1 addresses.

2 I declare under penalty of perjury that the foregoing is true and correct. Executed August 24,
3 2016, at Los Angeles, California.

4 
5

6 _____
7 Donald W. Cook
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF DWIGHT W. COOK

I, DWIGHT W. COOK, declare:

3 1. I am an Applications Programmer Analyst for the State of Minnesota. I have been employed
4 as a Programmer Analyst since May 1987. As a Programmer Analyst I provide systems analysis, database
5 design, software design, testing and installation, customer service (including dataset “data and image”
6 retrieval) for various entities. In the mid- to late 1990s, I designed and piloted the first Electronic
7 Document Management System (EDMS) for the State of Minnesota. The system manages millions of
8 records (or images), with a user base of approximately 5,000 (not including members of the public who
9 have limited access to some of the information). I also designed the first metadata application and
10 database for tracking the optically stored documents for the Minnesota Department of Transportation.
11 That system was used to manage over 500,000 images, with a user base of approximately 200, and has
12 since been expanded to cover millions more records and a far larger user base.

13 2. I have programmed and managed computer data systems on IBM mainframe and mini-
14 computers, as well as networked PC workstations. I have been a network administrator. I regularly work
15 with Oracle, MySQL, and MS Access databases. That is, I regularly work with these databases and I
16 write code in MS Access to manipulate the data for collection, storage and reporting purposes. Using
17 MS Access, I regularly access, import and/or copy data from Oracle data warehouses as large as several
18 terabytes (one terabyte is 1,000 gigabytes).

19 3. I hold a programmer certificate (two-year degree) from Alexandria Technical College in
20 Alexandria, Minnesota. I have completed numerous post degree courses and classes to enhance my
21 expertise in the area of computer program development, data analysis, design, storage, management, and
22 retrieval.

23 4. I am familiar with the data systems (VIIC and Laserfiche) used by Official Police Garage of
24 Los Angeles (OPG-LA) to track and identify vehicles seizures at the direction of the City of Los Angeles.
25 I am familiar with those systems based on (a) the January 3, 2014 declarations of David Ospina and Eric
26 Rose (submitted, I am informed, in a case called *Castillo v. City of Maywood*, L.A.S.C. No. BC 469942);
27 (b) February 10, 2014 deposition testimony by Mr. Rose in the same case; (c) the public search function
28 of vehicle seizures accessible at the OPG-LA website (opgla.com); and (d) my April 15, 2014 telephone

1 conversation with Mr. Ospina regarding the data systems. Mr. Ospina is a programmer and developer of
2 information systems used by OPG-LA and the individual Official Police Garages, or OPGs. Per Mr.
3 Rose's testimony, OPG-LA employs Mr. Ospina as an independent contractor to manage OPG-LA's
4 information systems.

5 5. I reviewed and analyzed a subset of VIIC data, provided to me by email by attorney Donald
6 W. Cook. I also reviewed a listing of the 51 fields created in VIIC for each VIIC record. Attached as
7 **Exhibit J** is a copy of the list. I received this list from attorney Donald W. Cook.

8 6. OPG-LA manages two data systems that track and identify vehicle seizures: VIIC and
9 Laserfiche. VIIC is a text-based database program where the data is inputted by the tow companies that
10 tow and store vehicles at City of Los Angeles direction. Laserfiche is a document imaging and storage
11 system. Tow companies scan the CHP 180 forms documenting vehicle seizures (along with possibly
12 other related documents) into Laserfiche. The two systems are connected (or "related") by a common
13 field – log number. Log number is a unique numerical identifier assigned to each record created in VIIC.
14 Laserfiche also uses the VIIC log numbers, to index the scanned documents to the VIIC record associated
15 with a particular seizure. For example, the log number for the September 14, 2011 City-directed seizure
16 of the 2000 Corolla (registered owner Julia Giron) is 12-201105047. That log number retrieves all VIIC
17 data associated with that seizure. The same log number retrieves from Laserfiche the CHP 180 form
18 created for the 9/14/11 Giron seizure.

19 7. Attached as **Exhibit K** is a sample of VIIC data. It consists of 20 VIIC records, documenting
20 20 vehicle seizures. This sample is limited to 10 fields for each record; there are actually 51 fields (per
21 **Exhibit J**). I refer to **Exhibit K** to show what VIIC data looks like as recorded in VIIC and when printed
22 onto paper.

23 8. From a programming standpoint, using VIIC and Laserfiche and covering any time period
24 from June 2010 to the present, it is easy to identify each and every instance in which a City of Los
25 Angeles official seized a vehicle with a storage reason of "21100.4," and retrieve in electronic form the
26 following:

27 A. Numerical compilations showing how many vehicles seized for a particular time period
28 for a particular storage reason (example, for the year 2015, you can determine how many vehicles

1 the City seized with a storage authority of §21100.4);

2 B. VIIC data created for each seizure (see **Exhibit K** for sample VIIC data). That would
3 include the date the vehicle was seized, vehicle identification, which tow yard towed the vehicle,
4 the date the vehicle was released and to whom, whether the vehicle was sold at a lien sale and the
5 amount, amount incurred in storage and tow charges, city taxes;

6 C. The CHP 180 form documenting each seizure.

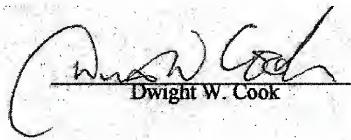
7 9. Because the VIIC data can be exported into a spreadsheet file (see 2/10/14 Rose depo. 49:9-
8 50:19 [**Exhibit F**]), making an electronic copy of VIIC takes but minutes, if that. It is a very simple
9 process of selecting records per search and retrieval criteria, then exporting the selected records to an
10 Excel spreadsheet file. The exported VIIC data is in the same electronic form (text data stored as records
11 with fields of information) as the records are stored in VIIC. In exporting the data, one can easily select
12 which data fields to export and which to omit. For instance, data fields reflecting names and/or addresses
13 (fields 40-44) can be excluded from any export. I point out that per the list of VIIC data fields (**Exhibit**
14 **J**), VIIC appears *not* to record a person's driver's license number or a person's medical history.

15 10. Making copies of CHP 180 forms is also easily accomplished. I would estimate probably no
16 more than a day or two at most. VIIC data is related to Laserfiche records via log number (meaning log
17 number identifies all VIIC data and the Laserfiche records unique to a particular vehicle seizure). A
18 programmer need only create a simple program that uses the VIIC data to construct a list of log numbers
19 of City of Los Angeles-directed vehicle seizures where the storage authority is 21100.4. Via
20 programming, that list is then used to identify, select, retrieve and copy the associated Laserfiche records.
21 Constructing and testing the program should not take more than two to four hours programming time
22 maximum. Running the program to copy the relevant records to a USB drive takes anywhere from
23 perhaps several hours to eight hours or so (depending on the number of records, connection speed and
24 a few other hardware-related issues). While the program is running, the programmer turns his attention
25 to other tasks. The programmer does *not* sit around watching the computer as it executes the program.

26 11. A claim that there are no computer databases in which CHP 180 forms prepared by City of
27 Los Angeles officials can be identified and accessed without searching by an individual's unique-field
28 identifier called an LAPD district report number (DR #), would be false. The OPG-LA managed VIIC

1 and Laserfiche systems provide easy and quick search and retrieval capabilities as I have described.

2 I declare under penalty of perjury of the State of California that the foregoing is true and correct
3 except as to those matters about which I have been informed. As to the matters stated on information and
4 belief, I believe they are true. Executed August 24, 2016, at St. Paul, Minnesota.

5
6 
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dwight W. Cook

DECLARATION OF CYNTHIA ANDERSON-BARKER

I, CYNTHIA ANDERSON-BARKER, declare:

1. I am the Petitioner in the above action.
2. **Exhibit A** to the Administrative Record is a true copy of my December 15, 2015 letter I sent addressees listed on the letter. I never received a response to my letter.

I declare under penalty of perjury that the foregoing is true and correct. Executed August 24, 2016, at Los Angeles, California. 

Cynthia Anderson-Barker

PROOF OF SERVICE BY MAIL AND EMAIL

I am a resident of the county of Los Angeles; I am over the age of 18 and not a party to the within action; my business address is 3435 Wilshire Blvd., Suite 2910, Los Angeles, CA 90010.

On August 24, 2016, I served the within PETITIONER'S BRIEF IN SUPPORT OF PETITION FOR ORDER COMPELLING DISCLOSURE PURSUANT TO PUBLIC RECORDS REQUEST; DECLARATIONS OF DONALD W. COOK, DWIGHT W. COOK AND CYNTHIA ANDERSON-BARKER on the interested parties herein by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at Los Angeles, California addressed as follows:

Gerald Sato
Deputy City Attorney
City Hall East, 9th Fl., Rm. 916
200 N. Main St.
Los Angeles, CA 90012
Email: gerald.sato@lacity.org

On the above date I also delivered a copy via email to the email address listed above.

I declare under penalty of perjury that the above is true and correct.

Executed on August 24, 2016, at Los Angeles, California.

Donald W. Cook